UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,567	11/10/2003	Artemio Castro	CM-2691M	4246

27752 7590 12/20/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
DOUYON, LORNA M	
ART UNIT	**PAPER NUMBER**
1751	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/705,567	CASTRO ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) *19,20,26 and 27* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18,21-25 and 28-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-18, 21-25, 28-33, drawn to a wipe, disposable dishwashing wipe or dishwashing sponge, classified in class 510, subclass 438.

II. Claims 19-20, 26-27, drawn to a method of cleaning a surface or dishes, classified in class 134, subclass 25.2.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practiced with another materially different product such as a dishwashing composition comprising builders.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Jeffrey V. Bamber on November 8, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18,

21-25, 28-33. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-20, 26-27 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

6. Claims 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 is indefinite in the recital of "the Washing Procedure" in line 2 because it is not clear what this procedure is, and the limitation lacks antecedent basis in the claim.

Claim 29 is indefinite in the recital of "the scale described herein" in lines 1-2, "the protocol for determination of suds grade" in line 2 because it is not clear what said phrases are, and the limitations lack antecedent basis in the claim. In addition, "twelve" in line 2 is misspelled.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6, 9-10, 13, 15-16, 30 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanaoka et al. (WO 98/26040), hereinafter "Hanaoka".

Hanaoka teaches a detergent-impregnated article in the same manner as in Example 1, which uses a pulp sheet under a load of 0.5 g/cm^2 and which sheet is thoroughly impregnated with the detergent (see page 27, lines 3-12), wherein the detergent comprises 3% silica (equivalent to the water-transfer agent) as the spherical solid abrasive particles, 0.50% dodecyl glucoside (nonionic surface active agent), 0.13% xanthan gum (equivalent to the water-soluble thickening polymer) (see Example 4, Formulations 23 and 24, page 33, line 10 to page 38, line 4). The xanthan gum should inherently possess a molecular weight within those recited. Hanaoka also teaches that a flexible porous structure such as a plastic foamed body, e.g., a spongy structure, is also useful as a base body, other than a sheet (see page 21, lines 16-18). The detergent-impregnated article is especially effective in cleaning a hard surface such as dishes and cooking tools (see page 22, lines 24-25; page 23, line 10). Hanaoka teaches the limitations of the instant claims. Hence, Hanaoka anticipates the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 7-8, 11-12, 14, 17-18, 21-25, 28-29, 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanaoka as applied to the above claims.

Hanaoka teaches the features as described above. In addition, Hanaoka teaches that the solid abrasive particles, such as silica, have an average primary particle size of 0.01 to 100 μm, still preferably 0.1 to 100 μm, and particularly 1 to 10 μm (see page 7, lines 16-20). Hanaoka also teaches that the detergent further comprises a thickening polysaccharide such as xanthan gum, guar gum, water-soluble celluloses in an amount from 0.01 to 10% by weight (see page 14, line 11 to page 15, line 25). For obtaining formulation stability and detergency of the detergent,

it is also preferable for the detergent to contain at least one of a surface active agent and a polymeric dispersant, each preferably added in an amount of 0.005 to 20% by weight and examples of the polymeric dispersant include those obtained by polymerizing a monomer or monomer mixture like acrylic acid, vinyl acetate or vinylpyrrolidone (see page 16, lines 6-12; page 17, line 19 to page 18, line 6), wherein when the vinyl acetate is polymerized and hydrolyzed will result to polyvinyl alcohol. It is also preferable to use, as a base body, a sheet comprising a network sheet and a nonwoven fiber aggregate formed by the entanglement of fibers of a fiber web, disposed on at least one side of the network sheet, wherein the fibers of the nonwoven fiber aggregate are further entangled with the network sheet to form a unitary body (see page 22, lines 11-15). Hanaoka, however, fails to specifically disclose the average particle size of the silica and its surface area, the molecular weight of the polyvinyl alcohol, the proportions of the thickener in amounts as those recited, and the wipe capable of cleaning at least 24cm diameter plate or exhibiting a suds grade of at least 3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the particle size of the silica and the proportions of the thickener through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch,* 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges overlap or lie

inside ranges disclosed by the prior art, see *In re Wertheim,* 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff,* 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I. With respect to the surface area of the silica and molecular weight of the polyvinyl alcohol, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the surface area of the silica to be within those recited because same silica having overlapping particle size has been utilized and to reasonably expect the molecular weight of the polyvinyl alcohol to be within those recited because the polymerization would produce said component with a molecular weight which would overlap those recited, considering the broad range of the recited molecular weight. With respect to the wipe capable of cleaning at least 24cm diameter plate or exhibiting a suds grade of at least 3, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the detergent-impregnated sheet of Hanaoka to exhibit similar characteristics because similar sheets having similar ingredients and overlapping proportions have been utilized.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Primary Examiner
Art Unit 1751